

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ROBERT THOMAS GUTHRIE,

Plaintiff,

v.

SNOHOMISH COUNTY, *et al.*,

Defendants.

CASE NO. C15-0036-JLR-MAT

REPORT AND RECOMMENDATION

Plaintiff Robert Guthrie is currently confined at the Snohomish County Jail. On December 23, 2014, the Court received from Mr. Guthrie a civil rights complaint under 42 U.S.C. § 1983 in which he alleged that his Eighth Amendment rights were violated when he was denied adequate medical treatment for serious medical conditions by Snohomish County Jail employees. (*See* Dkt. 1.) Plaintiff identified Snohomish County, Correctional Officer Sigh, and Dr. Stuart Anders as defendants in his complaint. (*See id.*) Plaintiff requested \$2 million in compensatory damages and \$1 million in punitive damages. (*Id.*) Plaintiff submitted with his complaint a declaration in support of a motion to proceed *in forma pauperis* and a motion for appointment of counsel. (*See id.*)

For reasons that are unclear, plaintiff's complaint was not processed by the Clerk's Office

1 until January 9, 2015 when the instant action was opened.¹ (*See* Dkt. 1.) On the same date, the
2 Clerk's Office sent plaintiff a letter advising him that his submission was defective because he
3 failed to submit either the full filing fee or an application to proceed *in forma pauperis*, and he
4 failed to provide a copy of his prison trust account statement. (Dkt. 2.) Plaintiff was given a
5 deadline of February 9, 2015 to correct the identified deficiencies. (*Id.*)

6 On January 6, 2015, before the complaint in this action was processed by the Clerk's
7 Office, the Court received another complaint from plaintiff alleging essentially the same claims
8 as are asserted in the complaint before the Court in this action. Plaintiff submitted with his
9 second complaint an application to proceed *in forma pauperis*. Plaintiff's second complaint was
10 processed on January 8, 2015, and was assigned case number C15-31-RSL-BAT. On January
11 13, 2015, the Court granted plaintiff's application to proceed *in forma pauperis* in that action.
12 (*See* C15-31-RSL-BAT, Dkt. 4.) On the same date, the Court issued an Order declining to serve
13 plaintiff's complaint and granting him leave to amend. (C15-31-RSL-BAT, Dkt. 6.) Plaintiff
14 filed an amended complaint in that action on January 22, 2015, and that complaint was ordered
15 served on defendants on January 26, 2015. (C15-31-RSL-BAT, Dkts. 12 and 14.)

16 On January 28, 2015, the Court received from plaintiff a letter seeking clarification
17 regarding his two ongoing actions. (*See* Dkt. 6 and C15-31-RSL-BAT, Dkt. 16.) Plaintiff
18 appears to indicate in his letter that the complaint received by the Court on January 6, 2015, and
19 assigned case number C15-31-RSL-BAT, was actually an amendment of the complaint received
20 by the Court on December 23, 2014, and assigned case number C15-36-JLR-MAT. (*See* Dkt. 6

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22 ¹ Plaintiff's complaint bears two date stamps, one indicating the complaint was received on December 23,
23 2014, and one indicating that it was received on January 7, 2015. (*See* Dkt. 1.) Given that plaintiff signed his
complaint on December 17, 2014, and that the envelope containing the complaint was postmarked December 22,
2014, it is reasonable to conclude that the complaint was, in fact, received on December 23, 2014.

1 and C15-31-RSL-BAT, Dkt. 16.) It does not appear that plaintiff intended to bring two separate
2 actions.

3 Because essentially the same claims are pending before the Court in the instant action and
4 in case number C15-31-RSL-BAT, and because case C15-31-RSL-BAT is more procedurally
5 advanced, this Court recommends that the instant action be dismissed as duplicative. A proposed
6 order accompanies this Report and Recommendation.

7 Objections to this Report and Recommendation, if any, should be filed with the Clerk and
8 served upon all parties to this suit within **twenty-one (21) days** of the date on which this Report
9 and Recommendation is signed. Failure to file objections within the specified time may affect
10 your right to appeal. Objections should be noted for consideration on the District Judge's
11 motions calendar for the third Friday after they are filed. Responses to objections may be filed
12 within **fourteen (14) days** after service of objections. If no timely objections are filed, the
13 matter will be ready for consideration by the District Judge on **February 27, 2015**.

14 DATED this 2nd day of February, 2015.

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17 Mary Alice Theiler
18 Chief United States Magistrate Judge
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